S.B. CIVIL WRIT PETITION NO.2185/2003
Ex.L/S No.F-49948 Jhumar Ram
vs
Union of India & Ors.

DATE OF ORDER:16.5.2006.

HON'BLE MR.R.C. GANDHI, J.

Mr.GR Punia, for the petitioner.
Mr. VK Mathur, for the respondents

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The petitioner was recruited in the Indian Navy on 6.8.1959 as a sailor. The petitioner vide order dated 12th Nov., 1970 was transferred to Fleet Reserve for a period of 10 years w.e.f. 9.12.1970. It is averred in the petition that he was never called by the respondents and under such circumstances, the petitioner seeks direction to the respondents to sanction pension in favour of the petitioner.

The respondents have filed reply stating therein that the petitioner vide communication dated 27th Nov., 1971 was called for active service in accordance with Article 27 of Fleet Reserve Regulations read with para 1(F) of Section 2 of Navy Act, 1957. The petitioner did not report and incurred criminal liability. As the petitioner failed to report for active service, the respondents have discharged the petitioner from his service w.e.f. 27.11.1971, as ordered by the Navy Headquarter. The respondents in reply to para no.4 of the writ petition has submitted that petitioner was called for active service by the

respondent no.3 vide order dated 27th Nov., 1971 and call up notices were returned undelivered by the postal authorities with the remarks that the adressee has gone out and his whereabout not known.

The writ petition cannot be allowed for pension benefits as the services of the petitioner have been discharged and unless the discharge order is challenged and set aside no relief of pension can be granted to the petitioner. Under such circumstances, the learned counsel for the petitioner has submitted that he may be permitted to withdraw the petition with permission to file fresh writ petition challenging the discharge order passed by the respondents.

The petition is accordingly dismissed as withdrawn with liberty to file fresh petition with just legal exceptions.

(R.C. Gandhi), J.

c.p.goyal/-